



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

JAN 23 2002

400 Seventh St., S.W.
Washington, D.C. 20590

Mr. John F. Dinda, Jr.
Regulatory Compliance Associate
Dinda & Associates Incorporated
525 Shady Retreat Road
Doylestown, PA 18901

Ref. No. 01-0312

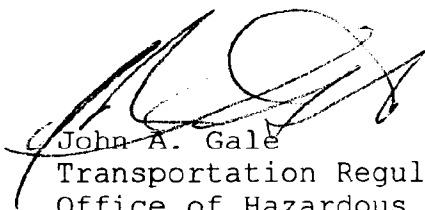
Dear Mr. Dinda:

This responds to your letter dated December 10, 2001 regarding defining criteria for marine pollutants under the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180). Specifically, you inquire whether it is permissible to classify a material as a marine pollutant under the HMR based solely on algae toxicity criteria published in the European Agreement concerning the international carriage of dangerous goods by road (ADR). You indicate that when shipments transported in accordance with the HMR or the International Maritime Dangerous Goods Code (IMDG Code) are imported into Europe, they become subject to the ADR marking requirements if they are transshipped after reaching their first destination point in Europe.

The answer is no. Section 171.4 of the HMR prohibits the offering of a marine pollutant except as required by the HMR or, as authorized and limited in § 171.12(b), under the IMDG Code. For transportation of marine pollutants, the requirements of the HMR and the IMDG Code are based on the provisions of Annex III of the 1973 International Convention for Prevention of Pollution from Ships, as modified by the protocol of 1978 (MARPOL 73/78). Because algae toxicity criteria are not recognized under the HMR or under the IMDG Code, a material may not be classified as a marine pollutant based solely on European ADR requirements.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,



John A. Gale
Transportation Regulations Specialist
Office of Hazardous Materials Standards

171.4



Stevens
§171.4
Marine Pollutants/
IMDG Code
01-0312

December 10, 2001

Research and Special Programs Administration
Office of Hazardous Materials Standards (DHM-10)
U.S. Department of Transportation
400 Seventh Street, SW
Washington, DC 20590-0001

Dear Sirs:

May a USA shipper identify packages (by means of labels and marks) and describe the shipment as environmentally hazardous..., Class 9, Marine Pollutant when the material meets only ADR Marine Pollutant algae toxicity criteria?

The materials at issue are herbicides. These herbicides are shipped from the USA not subject to the hazardous materials regulations or the IMDG Code. When reshipped in Europe and other ADR contracting countries, labels and marks are applied to each package and shipping papers are prepared. UN Certified packaging is being used to eliminate the need to repackage the herbicide.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'John F. Dinda, Jr.' with a stylized flourish at the end.

John F. Dinda, Jr.
Regulatory Compliance Associate